

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOSE AYALA, individually and on behalf
of himself and others similarly situated,

Plaintiff,

v.

STARTEK WORKFORCE SOLUTIONS, LLC,

Defendant.

ORDER

16-cv-367-bbc

Plaintiff Jose Ayala is an “installer” for defendant Startek Workforce Solutions, LLC, a company that “provid[es] [a] workforce for installation of Advanced Video, High Definition Programming, Digital Video Recording, High-Speed Internet and Telephone Services.” <http://www.strteks.com/>. Plaintiff is suing defendant for failing to pay him and other “installers” overtime wages, as required by the Fair Labor Standards Act. Defendant says that it was not required to pay overtime to installers because they are independent contractors rather than employees.

The parties have filed a joint motion to conditionally certify what is called a “collective action” under 29 U.S.C. § 216(b). Dkt. #7. The collective action would include anyone who was an installer for defendant within the last two years, was classified as an independent contractor and worked more than 40 hours in a week.

Conditional certification allows a plaintiff to provide notice to others who may be

similarly situated so that they may make an informed decision whether to join the case. At this point, the parties have not identified any relevant differences between plaintiff and other installers, so I agree that conditional certification is appropriate. Espenscheid v. DirectSat USA, LLC, 2010 WL 2330309, *6 (W.D. Wis. June, 7, 2010) (conditional certification requires "a modest factual showing" that plaintiff and potential class members were "victims of a common policy or plan that violated the law").

Accompanying the parties' motion is a proposed notice to potential members of the collective action. Because I see no problems with the content of the notice or the parties' proposed two month notice period, I approve the notice as well.

ORDER

IT IS ORDERED that

1. The parties' joint motion for conditional certification, dkt. #7, is GRANTED.
2. Plaintiff is authorized to send notice to other installers who were classified as independent contractors and worked for defendant Startek Workforce Solutions, LLC more than 40 hours a week during the relevant time period.
3. As agreed in the parties' joint motion, defendant may have 14 days to provide plaintiff's counsel the names and mailing addresses of each installer described in the previous paragraph.

3. Opt-in plaintiffs may have until December 1, 2016, to file notices of consent to join the lawsuit.

Entered this 14th day of September, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge